S. 2934, To Amend the charter of the American Legion [Johnson].

H.R. 3988, To Amend the charter of the American Legion [Gekas].

S. 2541, Identity Theft Penalty Enhancement Act of 2002 [Feinstein/Kyl/Sessions/Grassley].

H.R. 3180, To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact [Bass].

S. 2520, Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2002 [Hatch/Leahy/Sessions/Brownback/Edwards/DeWine/Grassley.

S. 3114, Hometown Heroes Survivors Benefits Act of 2002 [Leahy/Collins].

S. Con. Res. 94, A Sense of Congress that a National Importance of Health Coverage Month should be established [Wyden/Hatch/Grassley].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on ''America Still Unprepared—America Still in Danger'' on Thursday, November 14, 2002, at 2 p.m. in room 226 of the Dirksen Senate Office Building.

Witness List

Senator Warren B. Rudman, Co-Chair, Independent Terrorism Task Force Washington, DC.

Stephen E. Flynn, Member, Independent Terrorism Task Force, Senior Fellow, National Security Studies, Council on Foreign Relations, New York, NY.

Philip A. Odeen, Member, Independent Terrorism Task Force, Chairman, TRW Inc., Arlington, VA.

Col. Randy Larsen, Ret., Director, ANSER Institute for Homeland Security, Arlington, VA.

The PRESIDING OFFICER, Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. MCCAIN. Madam President, I ask unanimous consent that Joe Raymond, a Coast Guard fellow on the Senate Commerce Committee, be granted the privilege of the floor during consideration of the conference report to accompany S. 1214, the Port and Maritime Security Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. CLINTON. Madam President, I ask unanimous consent that a fellow in my office, Dr. Leo Tressande, be given floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL WEBCASTER AMENDMENTS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of H.R. 5469.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5469) to amend title 17, United States Code, with respect to the statutory license for webcasting.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Madam President, I am pleased that the Senate is taking the important step of passing H.R. 5469, the ''Small Webcaster Amendments Act of 2002.'' This legislation reflects hard choices made in hard negotiations under hard circumstances. I commend House Judiciary Chairman Sensenbrenner and Representative Conyers for bringing this legislation to a successful conclusion and passage in the House of Representatives in a timely fashion to make a difference in the prospects of many small webcasters.

The Internet is an American invention that has become the emblem of the Information Age and an engine for bringing American content into homes and businesses around the globe. I have long been an enthusiast and champion of the Internet and of the creative spirits who are the source of the music, films, books, news, and entertainment content that enrich our lives, energize our economy and influence our culture. As a citizen, I am impressed by the innovation of new online entrepreneurs, and as a Senator, I want to do everything possible to promote the full realization of the Internet's potential. A flourishing Internet with clear, fair and enforceable rules governing how content may be used will benefit *all* of us, including the entrepreneurs who want us to become new customers and the artists who create the content we value.

The advent of webcasting—streaming music online rather than broadcasting it over the air as traditional radio stations do—has marked one of the more exciting and quickly growing of the new industries that have sprung up on the Web. Many of the new webcasters, unconstrained by the technological limitations of traditional radio transmission, can and do serve listeners across the country and around the world. They provide music in specialized niches not available over the air. They feature new and fringe artists who do not enjoy the few spots in the Top 40. And they can bring music of all types to listeners who, for whatever reason, are not being catered to by traditional broadcasters.

We have been mindful on this Committee that as the Internet is a boon to consumers, we must not neglect the artists who create and the businesses which produce the digital works that make the online world so fascinating and worth visiting. With each legislative effort to provide clear, fair and enforceable intellectual property rules for the Internet, a fundamental principle to which we have adhered is that artists and producers of digital works merit compensation for the value derived from the use of their work.

In 1995, we enacted the Digital Performance Right in Sound Recordings Act, which created an intellectual property right in digital sound recordings, giving copyright owners the right to receive royalties when their copyrighted sound recordings were digitally transmitted by others. Therefore when their copyrighted sound recordings are digitally transmitted, royalties are due. In the 1998 Digital Millennium Copyright Act, DMCA, we made clear that this law applied to webcasters and that they would have to pay these royalties. At the same time, we created a compulsory license so that webcasters could be sure of the use of these digital works. We directed that the appropriate royalty rate could be negotiated by the parties or determined by a Copyright Arbitration Royalty Panel—or CARP—at the Library of Congress.

Despite some privately negotiated agreements, no industry-wide agreement on royalty rates was reached and therefore a CARP proceeding was instituted that concluded on February 20, 2002. The CARP decision set the royalty rate to be paid by commercial webcasters, no matter their size, at .14 cents per song per listener, with royalty payments retroactive to October 1998, when the DMCA was passed.

At a Judiciary Committee hearing I convened on this issue on May 15, 2002, nobody seemed happy with the outcome of the arbitration and, in fact, all the parties appealed. The recording industry and artist representatives feel that the royalty rate—which was based on the number of performances and listeners, rather than on a percentage-of-revenue model—was too low to adequately compensate the creative efforts of the artists and the financial investments of the labels. Many webcasters declared that the per-performance approach, and the rate attached to it, would bankrupt small operations and drain the large ones. I said then that such an outcome would be highly unfortunate not only for the webcasters but also for the artists, the labels and the consumers, who all would lose important legitimate channels to connect music and music lovers online.

On appeal, the Librarian in June, 2002, cut the rate in half, to .07 cents per song per listener for commercial webcasters. Nevertheless, many webcasters, who had been operating during the four-year period between 1998 and 2002, were taken by surprise at the amount of their royalty liability. The retroactive fees were to be paid in full by October 20th and would have resulted in many small webcasters in particular, going out of business.

In order to avoid many webcasting streams going silent on October 20, when retroactive royalty payments are due, I urged all sides to avoid more expense and time and reach a negotiated